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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/819,812

03/29/2001

Wade Charles Barnett

103286-00101

1454

27557

7590

04/26/2004

BLANK ROME LLP

600 NEW HAMPSHIRE AVENUE, N.W.  
WASHINGTON, DC 20037

EXAMINER

GANEY, STEVEN J

ART UNIT

PAPER NUMBER

3752

DATE MAILED: 04/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/819,812

Applicant(s)

BARNETT, WADE CHARLES

Examiner

Steven J. Ganey

Art Unit

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11 is/are allowed.
- 6) ☒ Claim(s) 1-10 and 12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. Receipt is acknowledged of the amendment filed on January 29, 2004, which has been fully considered in this action.

#### *Claim Objections*

2. Claims 9 and 11 are objected to because of the following informalities: In claim 9, line 2, the phrase "breaking agglomerated particles" should be --breaking the particles--. In claim 11, line 12, the phrase "breaking agglomerated particles" should be --breaking the particles--. The above changes should be made since in the office action, mailed out as paper #6, a 35 U.S.C. 112 first paragraph rejection was made concerning the lack of a description of "agglomerated particles". In the amendment filed March 13, 2003 by the applicant, the language was removed from claims 1, 11 and 12, however, it appears it was inadvertently left in amended claim 9. Appropriate correction is required.

#### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-9 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dvorak in view of Ossian et al.

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Dvorak shows a hand-portable spreader for blowing particles with an air stream comprising all the featured elements of the instant invention, note a conventional leaf blower 3/103 affixed to the top of a storage chamber 5/105 for a holding fertilizers, see col. 3, lines 47-50; an air conduit 109 with an orifice 143; and a nozzle 11, except for a grip and the storage chamber holding particles which melt ice or snow. As to a grip, note that a conventional leaf blower is disclosed and it is inherent that conventional leaf blowers have grips such that a user can hold it to blow leaves. Ossian et al teaches using a fertilizer such as potassium chloride to melt ice or snow. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the device of Dvorak to shoot the particles on ice or snow to be melted since Ossian et al teaches that a fertilizer can be used to melt ice or snow.

In support of the examiner's assertion that it is inherent that conventional leaf blowers have grips, note U.S. Patents No. 5,794,864 and No. 5,638,574, which show conventional leaf blowers 10 with grips 16 and 40, respectively. The references are only provided as documentary evidence and do not constitute a new grounds of rejection.

As to claim 9, the blower of Dvorak is a centrifugal vane pump type and the particles are capable of being broken up by vane impeller of the pump into smaller particles.

As to claim 12, potassium chloride is a salt.

5. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dvorak in view of Williams.

Dvorak discloses all the featured elements except for a shoulder strap. Williams shows a portable spreader apparatus with a shoulder strap 19. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a shoulder strap on the

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apparatus of Dvorak, as taught by Williams, since such a modification would reduce the load and stress on the user when holding it by the hand.

*Allowable Subject Matter*

6. Claim 11 is allowed.

*Response to Arguments*

7. Applicant's arguments filed January 29, 2004 have been fully considered but they are not persuasive.

In response to applicant's arguments that Dvorak does not show a grip, note the discussion above in paragraph 4. As to the disclosure of a conventional blower, such as a leaf blower, note col. 3, lines 35-37. Applicant has not provided any evidence that the blower in Dvorak appears to be the type of apparatus that is mounted onto a wheeled support structure rather than being hand held.

*Conclusion*

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period


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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven J. Ganey whose telephone number is (703) 308-2585. The examiner can normally be reached on Monday, Tuesday, Thursday and Friday from 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mar, can be reached on (703) 308-2087. The fax phone number for this Group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1113.

  
**STEVEN J. GANEY**  
**PRIMARY EXAMINER**  
4/19/04

sjg

4/19/04